

Exhibit "38"

INTERROGATORY

I, Patricia A. Murray, Area Port Director, GS-14,
(name of person) (title and grade of your position)
do hereby solemnly swear that the answers I provide to
(swear or affirm)
the questions herein are the truth, the whole truth and nothing but the
truth (so help me God).

1. How many years of Federal service do you have? 32 years
2. How long have you been employed by the Immigration & Naturalization Service (INS)? 24 years
3. At which office location are you presently employed? How long have you worked here?
Honolulu District, Honolulu International Airport. 21 years
4. Who is your immediate supervisor; how long have you work for him/her?
David G. Gulick, 12 years
5. The record evidence shows that the complainant, Mr. Andrew Lopez, filed a complaint of discrimination based on race (Hispanic/Latino), national origin (Mexican American) and reprisal. In this connection, would you please state your race and national origin?

White/European (French/Italian)

6. With respect to the issue involving a letter he received dated January 28, 1999 indicating that his performance had fallen below fully successful (FS) in two critical elements in his performance work plan (PWP), did you sign this letter? If no, who did?

I did not sign the letter. It was signed by Supervisory Senior Inspector Kelly Brehm.

7. What role did you play in preparing this letter?

None. I knew about it but did not take part in preparing it.

8. Did you agree with the contents of the letter? If no, explain.

Yes.

9. What two critical elements were identified as below FS?

Intelligence Gathering and Providing Training.

10. What is the complainant's annual rating period (from and to)?

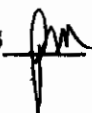
From: April 1, 1998 to March 30, 1999

11. Were all the reasons for notifying the complainant about his performance stated in the letter dated January 28, 1999? If no, explain.

Yes.

12. Was the letter of January 28, 1999, the same letter that advised him he was being placed in a Performance Improvement Plan (PIP) for 30 days? Explain.

Yes. It was determined that his performance in the two areas could be below fully successful so an effort was made to raise his performance.



13. Did the complainant offer any rebuttal to the letter(s) of January 28, 1999? If yes, was it in writing? If not in writing, did he speak to you and, in brief, what did he say.

No. He made no effort to speak to me or contact me in writing.

14. Prior to January 28, 1999, was it ever necessary to notify the complainant that is performance was falling below FS? If yes, explain.

No.

15. At the end of the 30 days that he was subject to a PIP,

(1) was the period extended (in writing)?

No.

(2) did he receive any written notice that his performance still had not improved to the point that further action would be taken; or

No.

(3) did he receive written notification that his performance had improved to at least at the FS level?

Yes.

16. In the last two years, have you placed any other employee, who is a Senior Inspector, GS-11 or higher, in a PIP? If yes, who; what is this person's race and national origin?

No.

17. Was the complainant's race and/or national origin factors in your determination that his performance had fallen below FS and it was necessary to place him in a PIP? If yes, explain.

No.

18. As to the matter of the complainant being told on February 3, 1999 that he was to on assignment to Guam for two weeks, please respond to the following:

a. Did you tell the complainant he had to go to Guam for two weeks? If no, who did? Was this a decision you made or were advised by someone to send him to Guam? If made by someone else, who made the decision?

I did not tell him this. Supervisory Senior Inspector Kelly Brehm told him. The District Director told me to send two Senior Inspectors to Guam. I, in turn, told SSRI Brehm to send two Senior Inspectors.

b. What was the reason for sending him on this assignment?

There was an operational crisis on Guam which need the detail of officers to that location. The District Director dispatched several Special Agents and asked for two Senior Inspectors to supplement the SAs. Of the 6 SRIs, Lopez and Kojima had the least commitments so they were sent.

c. What were the actual dates of the assignment to Guam?

February 6, 1999 to February 17, 1999.

d. Had the complainant ever been sent to Guam in the past on assignment? If yes, when; for how long a period?

No.

e. Is there any regulation/policy/directive about how much advance notice an employee must receive before going on assignment to such places as Guam? If yes, please identify the regulation/policy/directive.

No. However, we try to give the employee as much notice as possible but we sometimes must make assignments with short notifications due to operational necessities.

f. Is there a normal advanced notice period for such assignments? If yes, what is it; are there any exceptions? Was this an exception?

There is no definite advance notice period. We give what we can and, in this case, we could only give one day notice.

g. In the last two years have you sent any other Senior Inspector, GS-11 or higher, on temporary assignment to such places as Guam? If yes, who; what is this person's race and national origin, how long a period? How much advance notice was this person(s) given?

Yes.

Oriental/Japanese American - 1 day notice - 10-day detail *CLAUDE KOSIMA*
Pacific Islander/Philippine American - 3 hours notice - 60-day detail *BENJAMIN DUMANGRA*
Oriental/Japanese American - 2 days notice - 20-day detail *RICK MURATA*

h. Was the complainant's race and national origin factors in the determination to send him on a two week assignment to Guam? If yes, explain.

No

19. The complainant also indicated that the above actions were taken in reprisal for his previous EEO protected activity. In this connection, please respond to the following:

a. Were you aware that the complainant previously engaged in EEO protected activity? Previous EEO protected activity includes filing a previous complaint, testifying for someone else in their complaint, protesting a policy or regulation as discriminatory. If yes, what type of activity was it?

Yes, He filed a complaint of discrimination.

b. If you know, please indicate the date(s) of his previous protected activity?

I was interviewed on January 29, 1999. I don't know what other dates were involved.

c. Do you recall the issue(s) involved in his previous EEO protected activity? If yes, what was it?

The complaint concerned his Performance Work Plan/^{and} his work assignments,

d. Were you involved in his previous EEO protected activity? If yes, how?

I was interviewed as his third line supervisor.

e. Were any of the actions described above (i.e., notice his performance had fallen below FS, PIP and assignment to Guam) taken in retaliation for the complainant's previous protected activity? If yes, explain.

No.

20. Is there anything else *related* to the above matters that you wish to add? If yes, do so here.

Mr. Lopez has filed so many complaints/grievances (EEO/Union/Office of Internal Audit/Office of the Inspector General) that I may have not included all his past EEO protected activities in the above question.

However, to the best of my recollection, the one cited above is the only one that was EEO.

I have read the above statement, consisting of 6 pages, and it is true and complete to the best of my knowledge and belief. I understand the information I have given is made under penalty of perjury and is not considered confidential.

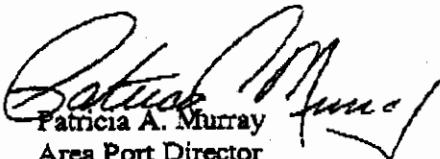
Subscribed and (sworn to) (affirmed)
before me at Honolulu
on this 8th day of November 1999


Investigator's signature


Complainant's Signature
D

The following officers were detailed to Tinian, Commonwealth of the Northern Mariana Islands, on April 15, 1999, for a 30 to 45 day detail with only a three-hour notice:

Name	Title	Grade
Joy Cohen	Supervisory Immigration Inspector	GS-12
Bishnu Ramsarran	Supervisory Immigration Inspector	GS-12
Benjamin Bumanglag	Senior Immigration Inspector	GS-11
Sylvia Baldwin	Special Operations Inspector	GS-11
Robert Griffon	Special Operations Inspector	GS-11
Helene Grgurich	Special Operations Inspector	GS-11
Magdalena Cabras	Immigration Inspector	GS-09
Ulese Mariota	Immigration Inspector	GS-09
Bruce Gates	Immigration Inspector	GS-07
Shannon Gushiken	Immigration Inspector	GS-07
Gary Thomas	Immigration Inspector	GS-07
Raul Uyenco	Immigration Inspector	GS-07
Susan Kakuda	Immigration Inspector	GS-05
Kernette Pocock	Immigration Inspector	GS-05
Greg Uwayne	Immigration Inspector	GS-05


 Patricia A. Murray
 Area Port Director
 11/8/99